

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 1149 of 2005
IN
APPEAL FROM ORDER NO.745 OF 2005

Municipal Corporation of Gr.

Mumbai. .. Petitioner

versus

Juhu Vile Parle Development

Co-op Housing Association Ltd. .. Respondents

...

Mr.R.A. Malandkar for the applicant.

Mr.Nishant Thakker for the respondents.

CORAM : B.H. MARLAPALLE, J

DATED : 20th October 2005.

P.C.:

1. Heard Mr.Malandkar, the learned counsel for the applicant and Mr.Thakker, the learned counsel for the respondent.

2. Appeal from order no.745 of 2005 was filed by the present applicant Corporation and was disposed on 12th July 2005. The trial Court was directed to decide Notice of Motion pending in S.C. Suit no.2554 of 2005 by 31st October 2005 and the parties were directed to complete their pleadings by 2nd September 2005.

3. It appears that despite the directions to complete the pleadings by 2.9.2005, the Corporation did not file its reply/written statement and on 2nd September 2005,, as well as 15th September 2005, the learned Advocate appearing for the Corporation before the trial Court sought time to file the reply to the Notice of Motion, as is evident from the copy of the roznama placed on record in the B.C.C.C.Suit no.2554 of 2005. On 26.9.2005 when the Notice of Motion came up before the trial Court, the learned Advocate for the Corporation sought time to file reply but the Court noticed that the time limit set out by this Court to file reply had expired on 2nd September 2005. This application has been presented on 7th October 2005 praying for extension of time to file reply to the Notice of Motion.

4. The learned counsel for the respondent is right in his submissions that the applicant Corporation being a public body and with the panel of Advocates appearing in the City Civil Court could not be so casual and negligent in taking steps as per the directions of this Court. Mr.Malandkar, the learned counsel for the Corporation on the other hand submitted that solely on account of inadvertence, the Corporation could not be informed that it was required to file the reply by 2.9.2005 and due to this lapse, the public body should not suffer. It was further submitted by Mr.Malandkar that if the Corporation fails to file reply, there may not be proper adjudication of the Notice of Motion.

5. Having considered the arguments advanced by the learned counsel for the respective parties, and the explanation furnished by Mr.Malandkar, it would be just and proper that the Corporation is granted time to file the reply more so when it is ready and verified. the Notice of Motion is scheduled to appear before the trial Court tomorrow. It is therefore directed that in case the Corporation

places its reply to the Notice of Motion before the trial Court tomorrow, the same shall be taken on record and the time limit originally set out as 2.9.2005 would stand extended till tomorrow. Consequently, it is directed that the Notice of Motion be heard and decided by 30th November 2005. Civil Application is disposed accordingly.

6. In the peculiar facts of this case, the Corporation shall pay costs quantified at Rs.100/-.

B.H. MARLAPALLE, J